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BARLOW, JOSEPHS & HOLMES, LTD. 101 DYER STREET 5TH FLOOR PROVIDENCE, RI 02903			HINZE, LEO T	
			ART UNIT	PAPER NUMBER
			2854	

DATE MAILED: 03/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/808,869

Applicant(s)

GALLI, ROBERT D.

Examiner

Leo T. Hinze

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 12-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>20040616</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

2. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal

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disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1 and 2 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/360,781 (hereinafter '781) in view of Ueno et al., US 6,806,644 (hereinafter Ueno).

a. Regarding claim 1:

Claim 1 of '781 teaches an illuminated watch assembly comprising: a housing, said housing having a side wall, an interior compartment, a channel extending through said sidewall from said interior compartment to the exterior of the housing; a first means for visible light illumination in said interior compartment, wherein light from said first means for visible light illumination is directed through said channel to the exterior of the housing; a watch mechanism installed in said interior compartment, said watch mechanism having a face which is visible through said watch crystal; a second means for illumination in said interior compartment, wherein light from said second means for illumination is directed into a space defined between said face and said watch crystal; at least one power source in said interior compartment, said at least one power source providing power for said watch mechanism, said first means for illumination and said second means for illumination; and a means for selectively and independently energizing said first and second means for illumination.

Claim 1 of '781 does not teach a crystal and wherein the second illumination source is a near ultraviolet means for illumination.

Ueno teaches a watch with a crystal (3, Fig. 16) and an LED for near ultraviolet

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illumination (30, Fig. 16; col. 8, ll. 36-38). Ultraviolet is advantageous for providing a backlight function and excellent decoration properties (col. 1, ll. 62-63).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Claim 1 of '781 by adding a crystal and ultraviolet light, because a person having ordinary skill in the art would recognize that a crystal would protect the watch hands from damage, and Ueno teaches that UV light is advantageous for providing a backlight function and excellent decoration properties.

b. Regarding claim 2, the combination of Claim 1 of '781 and Ueno teaches all that is claimed as discussed in the double patenting rejection of claim 1 above. Ueno as combined with Claim 1 of '781 above also teaches indicia disposed on said face, said indicia formed from a phosphorescent material (15, Fig. 16; 17, Fig. 11), wherein said phosphorescent material is charged by said near ultraviolet illumination thereby causing said phosphorescent material to glow (col. 5, ll. 55-64).

4. Claim 3 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 2 of copending Application No. '781 in view of Ueno.

Claim 2 of '781 teaches an illuminated watch assembly comprising: a housing, said housing having a side wall, an interior compartment, a channel extending through said sidewall from said interior compartment to the exterior of the housing; a first means for visible light illumination in said interior compartment, wherein light from said first means for visible light illumination is directed through said channel to the exterior of the housing; a watch mechanism

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installed in said interior compartment, said watch mechanism having a face which is visible through said watch crystal; a second means for illumination in said interior compartment, wherein light from said second means for illumination is directed into a space defined between said face and said watch crystal; at least one power source in said interior compartment, said at least one power source providing power for said watch mechanism, said first means for illumination and said second means for illumination; and a means for selectively and independently energizing said first and second means for illumination; and wherein said first and second means for illumination are light emitting diodes.

Claim 2 of '781 does not teach a crystal and wherein the second illumination source is a near ultraviolet means for illumination.

Ueno teaches a watch with a crystal (3, Fig. 16) and an LED for near ultraviolet illumination (30, Fig. 16; col. 8, ll. 36-38). Ultraviolet is advantageous for providing a backlight function and excellent decoration properties (col. 1, ll. 62-63).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Claim 2 of '781 by adding a crystal and ultraviolet light, because a person having ordinary skill in the art would recognize that a crystal would protect the watch hands from damage, and Ueno teaches that UV light is advantageous for providing a backlight function and excellent decoration properties.

5. Claim 4 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 3 of copending Application No. '781 in view of Ueno.

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Claim 3 of '781 teaches an illuminated watch assembly comprising: a housing, said housing having a side wall, an interior compartment, a channel extending through said sidewall from said interior compartment to the exterior of the housing; a first means for visible light illumination in said interior compartment, wherein light from said first means for visible light illumination is directed through said channel to the exterior of the housing; a watch mechanism installed in said interior compartment, said watch mechanism having a face which is visible through said watch crystal; a second means for illumination in said interior compartment, wherein light from said second means for illumination is directed into a space defined between said face and said watch crystal; at least one power source in said interior compartment, said at least one power source providing power for said watch mechanism, said first means for illumination and said second means for illumination; and a means for selectively and independently energizing said first and second means for illumination; and wherein said first and second means for illumination are light emitting diodes; and wherein said first light emitting diode has an output color, said color selected from the group consisting of white, red, blue, yellow and combinations thereof.

Claim 3 of '781 does not teach a crystal and wherein the second illumination source is a near ultraviolet means for illumination.

Ueno teaches a watch with a crystal (3, Fig. 16) and an LED for near ultraviolet illumination (30, Fig. 16; col. 8, ll. 36-38). Ultraviolet is advantageous for providing a backlight function and excellent decoration properties (col. 1, ll. 62-63).

It would have been obvious to a person having ordinary skill in the art at the time the

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invention was made to modify Claim 3 of '781 by adding a crystal and ultraviolet light, because a person having ordinary skill in the art would recognize that a crystal would protect the watch hands from damage, and Ueno teaches that UV light is advantageous for providing a backlight function and excellent decoration properties.

6. Claim 5 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 5 of copending Application No. '781 in view of Ueno.

Claim 5 of '781 teaches an illuminated watch assembly comprising: a housing, said housing having a side wall, an interior compartment, a channel extending through said sidewall from said interior compartment to the exterior of the housing; a first means for visible light illumination in said interior compartment, wherein light from said first means for visible light illumination is directed through said channel to the exterior of the housing; a watch mechanism installed in said interior compartment, said watch mechanism having a face which is visible through said watch crystal; a second means for illumination in said interior compartment, wherein light from said second means for illumination is directed into a space defined between said face and said watch crystal; at least one power source in said interior compartment, said at least one power source providing power for said watch mechanism, said first means for illumination and said second means for illumination; and a means for selectively and independently energizing said first and second means for illumination; and wherein said first and second means for illumination are light emitting diodes; and wherein said first light emitting diode is white and said second light emitting diode has a peak output of approximately 435 nm.

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Claim 5 of '781 does not teach a crystal and wherein the second illumination source is a near ultraviolet means for illumination.

Ueno teaches a watch with a crystal (3, Fig. 16) and an LED for near ultraviolet illumination (30, Fig. 16; col. 8, ll. 36-38). Ultraviolet is advantageous for providing a backlight function and excellent decoration properties (col. 1, ll. 62-63).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Claim 5 of '781 by adding a crystal and ultraviolet light, because a person having ordinary skill in the art would recognize that a crystal would protect the watch hands from damage, and Ueno teaches that UV light is advantageous for providing a backlight function and excellent decoration properties.

7. Claim 6 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 6 of copending Application No. '781 in view of Ueno.

Claim 6 of '781 teaches an illuminated watch assembly comprising: a housing, said housing having a side wall, an interior compartment, a channel extending through said sidewall from said interior compartment to the exterior of the housing; a first means for visible light illumination in said interior compartment, wherein light from said first means for visible light illumination is directed through said channel to the exterior of the housing; a watch mechanism installed in said interior compartment, said watch mechanism having a face which is visible through said watch crystal; a second means for illumination in said interior compartment, wherein light from said second means for illumination is directed into a space defined between

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said face and said watch crystal; at least one power source in said interior compartment, said at least one power source providing power for said watch mechanism, said first means for illumination and said second means for illumination; and at least one power source comprising: a first power source providing power for said watch mechanism; and a second power source providing power for said first and second means for illumination.

Claim 6 of '781 does not teach a crystal and wherein the second illumination source is a near ultraviolet means for illumination.

Ueno teaches a watch with a crystal (3, Fig. 16) and an LED for near ultraviolet illumination (30, Fig. 16; col. 8, ll. 36-38). Ultraviolet is advantageous for providing a backlight function and excellent decoration properties (col. 1, ll. 62-63).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Claim 6 of '781 by adding a crystal and ultraviolet light, because a person having ordinary skill in the art would recognize that a crystal would protect the watch hands from damage, and Ueno teaches that UV light is advantageous for providing a backlight function and excellent decoration properties.

8. Claims 7 and 8 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 7 of copending Application No. '781 in view of Ueno.

a. Regarding claim 7:

Claim 7 of '781 teaches an illumination assembly for a watch, said watch having a housing, said housing having a side wall, an interior compartment, a channel extending through

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said sidewall from said interior compartment to the exterior of the housing and a watch mechanism installed in said interior compartment, said watch mechanism having a face visible through said watch crystal, said illumination assembly comprising: a first means for visible light illumination in said interior compartment, wherein light from said first means for illumination is directed through said channel to the exterior of the housing; a second means for illumination in said interior compartment, wherein light from said second means for illumination is directed into a space defined between said face and said watch crystal; at least one power source in said interior compartment, said at least one power source providing power for said timepiece, said first means for illumination and said second means for illumination; and a means for selectively and independently energizing said first and second means for illumination.

Claim 7 of '781 does not teach a crystal and wherein the second illumination source is a near ultraviolet means for illumination.

Ueno teaches a watch with a crystal (3, Fig. 16) and an LED for near ultraviolet illumination (30, Fig. 16; col. 8, ll. 36-38). Ultraviolet is advantageous for providing a backlight function and excellent decoration properties (col. 1, ll. 62-63).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Claim 7 of '781 by adding a crystal and ultraviolet light, because a person having ordinary skill in the art would recognize that a crystal would protect the watch hands from damage, and Ueno teaches that UV light is advantageous for providing a backlight function and excellent decoration properties.

b. Regarding claim 8, the combination of Claim 7 of '781 and Ueno teaches all that is

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claimed as discussed in the double patenting rejection of claim 7 above. Ueno as combined with Claim 7 of '781 above also teaches indicia disposed on said face, said indicia formed from a phosphorescent material (15, Fig. 16; 17, Fig. 11), wherein said phosphorescent material is charged by said near ultraviolet illumination thereby causing said phosphorescent material to glow (col. 5, ll. 55-64).

9. Claim 9 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 8 of copending Application No. '781 in view of Ueno.

Claim 8 of '781 teaches an illuminated watch assembly comprising: a housing, said housing having a side wall, an interior compartment, a channel extending through said sidewall from said interior compartment to the exterior of the housing; a first means for visible light illumination in said interior compartment, wherein light from said first means for visible light illumination is directed through said channel to the exterior of the housing; a watch mechanism installed in said interior compartment, said watch mechanism having a face which is visible through said watch crystal; a second means for illumination in said interior compartment, wherein light from said second means for illumination is directed into a space defined between said face and said watch crystal; at least one power source in said interior compartment, said at least one power source providing power for said watch mechanism, said first means for illumination and said second means for illumination; and a means for selectively and independently energizing said first and second means for illumination; and wherein said first and second means for illumination are light emitting diodes.

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Claim 8 of '781 does not teach a crystal and wherein the second illumination source is a near ultraviolet means for illumination.

Ueno teaches a watch with a crystal (3, Fig. 16) and an LED for near ultraviolet illumination (30, Fig. 16; col. 8, ll. 36-38). Ultraviolet is advantageous for providing a backlight function and excellent decoration properties (col. 1, ll. 62-63).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Claim 8 of '781 by adding a crystal and ultraviolet light, because a person having ordinary skill in the art would recognize that a crystal would protect the watch hands from damage, and Ueno teaches that UV light is advantageous for providing a backlight function and excellent decoration properties.

10. Claim 10 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 11 of copending Application No. '781 in view of Ueno.

Claim 11 of '781 teaches an illuminated watch assembly comprising: a housing, said housing having a side wall, an interior compartment, a channel extending through said sidewall from said interior compartment to the exterior of the housing; a first means for visible light illumination in said interior compartment, wherein light from said first means for visible light illumination is directed through said channel to the exterior of the housing; a watch mechanism installed in said interior compartment, said watch mechanism having a face which is visible through said watch crystal; a second means for illumination in said interior compartment, wherein light from said second means for illumination is directed into a space defined between

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said face and said watch crystal; at least one power source in said interior compartment, said at least one power source providing power for said watch mechanism, said first means for illumination and said second means for illumination; and a means for selectively and independently energizing said first and second means for illumination; and wherein said first and second means for illumination are light emitting diodes; and wherein said first light emitting diode is white and said second light emitting diode has a peak output of approximately 435 nm.

Claim 11 of '781 does not teach a crystal and wherein the second illumination source is a near ultraviolet means for illumination.

Ueno teaches a watch with a crystal (3, Fig. 16) and an LED for near ultraviolet illumination (30, Fig. 16; col. 8, ll. 36-38). Ultraviolet is advantageous for providing a backlight function and excellent decoration properties (col. 1, ll. 62-63).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Claim 11 of '781 by adding a crystal and ultraviolet light, because a person having ordinary skill in the art would recognize that a crystal would protect the watch hands from damage, and Ueno teaches that UV light is advantageous for providing a backlight function and excellent decoration properties.

11. Claim 11 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 12 of copending Application No. '781 in view of Ueno.

Claim 12 of '781 teaches an illuminated watch assembly comprising: a housing, said housing having a side wall, an interior compartment, a channel extending through said sidewall

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from said interior compartment to the exterior of the housing; a first means for visible light illumination in said interior compartment, wherein light from said first means for visible light illumination is directed through said channel to the exterior of the housing; a watch mechanism installed in said interior compartment, said watch mechanism having a face which is visible through said watch crystal; a second means for illumination in said interior compartment, wherein light from said second means for illumination is directed into a space defined between said face and said watch crystal; at least one power source in said interior compartment, said at least one power source providing power for said watch mechanism, said first means for illumination and said second means for illumination; and at least one power source comprising: a first power source providing power for said watch mechanism; and a second power source providing power for said first and second means for illumination.

Claim 12 of '781 does not teach a crystal and wherein the second illumination source is a near ultraviolet means for illumination.

Ueno teaches a watch with a crystal (3, Fig. 16) and an LED for near ultraviolet illumination (30, Fig. 16; col. 8, ll. 36-38). Ultraviolet is advantageous for providing a backlight function and excellent decoration properties (col. 1, ll. 62-63).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Claim 12 of '781 by adding a crystal and ultraviolet light, because a person having ordinary skill in the art would recognize that a crystal would protect the watch hands from damage, and Ueno teaches that UV light is advantageous for providing a backlight function and excellent decoration properties.

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This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 1-5 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aoyama et al., US 5,548,656 (hereinafter Aoyama) in view of Ueno et al., US 6,806,644 (hereinafter Ueno).

a. Regarding claims 1 and 7:

Aoyama teaches an illuminated watch assembly comprising: a housing (1, Fig. 1) , said housing having a side wall, an interior compartment, a channel extending through said sidewall from said interior compartment to the exterior of the housing (as shown in Fig. 4, LEDs 4 and 6 are part of a common circuit, which implies an interior connecting compartment); a first means for visible light illumination (6, Fig. 1) in said interior compartment, wherein light from said first means for visible light illumination is directed through said channel to the exterior of the housing; a watch mechanism (2, Fig. 1) installed in said interior compartment, said watch mechanism having a face which is visible through said watch crystal; a second means for illumination (4, Fig. 1) in said interior compartment, wherein light from said second means for

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illumination is directed into a space defined between said face and said watch crystal; at least one power source (22, Fig. 4) in said interior compartment, said at least one power source providing power for said watch mechanism, said first means for illumination and said second means for illumination; and a means for selectively and independently energizing said first and second means for illumination (7, 8, Fig. 1).

Aoyama does not teach a crystal or wherein the second illumination means is near ultraviolet.

Ueno teaches a watch with a crystal (3, Fig. 16) and an LED for near ultraviolet illumination (30, Fig. 16; col. 8, ll. 36-38). Ultraviolet is advantageous for providing a backlight function and excellent decoration properties (col. 1, ll. 62-63).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Aoyama by adding a crystal and ultraviolet light, because a person having ordinary skill in the art would recognize that a crystal would protect the watch hands from damage, and Ueno teaches that UV light is advantageous for providing a backlight function and excellent decoration properties.

b. Regarding claims 2 and 8, the combination of Aoyama and Ueno teaches all that is claimed as discussed in the rejection of claims 1 and 7 above. Ueno as combined with Aoyama above also teaches indicia disposed on said face, said indicia formed from a phosphorescent material (15, Fig. 16; 17, Fig. 11), wherein said phosphorescent material is charged by said near ultraviolet illumination thereby causing said phosphorescent material to glow (col. 5, ll. 55-64).

c. Regarding claims 3 and 9, the combination of Aoyama and Ueno teaches all that is

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claimed as discussed in the rejection of claims 1 and 7 above. Aoyama also teaches wherein said first and second means for illumination are light emitting diodes (col. 4, ll. 5-16).

d. Regarding claim 4, the combination of Aoyama and Ueno teaches all that is claimed as discussed in the rejection of claim 1 above. Aoyama also teaches wherein said first light emitting diode has an output color, said color selected from the group consisting of red, yellow and combinations thereof (col. 5, ll. 34-36).

e. Regarding claims 3 and 10:

The combination of Aoyama and Ueno teaches all that is claimed as discussed in the rejection of claims 1 and 7 above. Ueno as combined with Aoyama above also teaches said second light emitting diode has a peak output of approximately 435 nm ("ultraviolet ray-emitting elements," col. 8, ll. 36-38). Aoyama teaches that the color of the LEDs may be yellow, red or green (col. 5, ll. 34-36).

The combination of Aoyama and Ueno does not teach wherein the first LED is white.

It has been held that mere aesthetic changes are not sufficient to patentably distinguish an invention over the prior art. See MPEP § 2144.04(I).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to additionally modify Aoyama such that the color of the first LED was white, because a person having ordinary skill in the art would recognize that a white color LED is merely an aesthetic change in color from red, yellow, or green, and that a white LED would provide adequate illumination.

14. Claims 6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aoyama

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in view of Ueno as applied to claims 1 and 7 above, and further in view of Schneider, US 5,894,456 (hereinafter Schneider).

The combination of Aoyama and Ueno teaches all that is claimed as discussed in the rejection of claims 1 and 7 above. Aoyama teaches a battery (22, Fig. 1) for powering the LEDs. Aoyama and Ueno inherently must contain a power source for powering both the LEDs and the watch mechanism, although both are silent as to the exact details of such a power source.

Schneider teaches a timepiece including luminous elements that has a movement battery ("movement battery," col. 3, l. 43) and separate supply batteries (44, 45, Fig. 3).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to further modify Aoyama to include separate power sources for the LEDs and the watch mechanism as taught by Schneider, because a person having ordinary skill in the art would recognize the advantages of separate power supplies, as the LEDs and watch mechanism may have different power needs, and it would be advantageous to ensure that the watch mechanism has a separate power supply, to ensure that even if the LEDs lost power, the watch mechanism would still function and provide the user with an indication of the time.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leo T. Hinze whose telephone number is (571) 272-2167. The examiner can normally be reached on M-F 8:00-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld can be reached on (571) 272-2168. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



ANDREW H. HIRSHFELD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

Leo T. Hinze
Patent Examiner
AU 2854
27 March 2006